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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-0246 CW
)	
Plaintiff,)	STIPULATION AND ORDER
)	CONTINUING HEARING AND
v.)	EXCLUDING TIME
)	
KAO SAETURN, et al.,)	
)	
Defendants.)	

Plaintiff, by and through its attorney of record, and defendants, by and through their attorneys of record, hereby stipulate and ask the Court to find as follows:

1. Defendants Saeturn and Saephan are charged in a second superseding indictment with a variety of robbery and firearms-related offenses that subject defendants to significant mandatory minimum sentences if convicted of all charges. Specifically, defendant Saeturn faces a mandatory minimum 82-year sentence while defendant Saephan faces a mandatory minimum 57-year sentence. Defendants Dang, Phun, and Nguyen have already pleaded guilty. Related defendant Soeung Mouv has also pleaded guilty. The matter is presently set for trial setting or motions setting or disposition on Wednesday, September 16, 2009.

STIPULATION AND ORDER RESCHEDULING
HEARING; EXCLUDING TIME

4. Thus, the parties respectfully request that the Court find that the time period from September 16, 2009, to October 7, 2009, is excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (B)(iv) because it results from a continuance granted by the Court at the defendants' request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial and because failure to grant the continuance would unreasonably deny defendant continuity of counsel and would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence.

/s/
GARTH HIRE
Assistant United States Attorney

1 Dated: September 15, 2009

/s/
2 MILES EHRLICH
3 Attorney for Defendant
4 Kao Saeturn

5 Dated: September 15, 2009

/s/
6 GAIL SHIFMAN
7 Attorney for Defendant
8 San Kwen Saephan

9 **ORDER**

10 FOR GOOD CAUSE SHOWN, THE COURT ADOPTS THE FINDINGS OF FACT AND
11 CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS SO
12 FOUND AND ORDERED THAT:

13 1. The currently scheduled September 16, 2009, hearing is vacated. A hearing for
14 trial setting or motions setting or disposition is now scheduled for 2:00 p.m. on October 7, 2009.

15 2. The time period from September 16, 2009, to October 7, 2009, is deemed
16 excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (B)(iv) because it results from a continuance
17 granted by the Court at the defendants' request and on the basis of the Court's finding that the
18 ends of justice served by taking such action outweigh the best interest of the public and the
19 defendants in a speedy trial and because failure to grant the continuance would unreasonably
20 deny defense counsel the time necessary for effective preparation for trial, taking into account
21 due diligence, as well as continuity of counsel. The Court finds that nothing in this stipulation
22 and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that
23 additional time periods are excludable from the period within which trial must commence.

24
25 DATED: September 15, 2009


26 HONORABLE CLAUDIA WILKEN
27 UNITED STATES DISTRICT JUDGE
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